



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/168628

PRELIMINARY RECITALS

Pursuant to a petition filed September 8, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Dane County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on November 5, 2015. At petitioner's request a Hearing scheduled for October 1, 2015 was rescheduled.

The issue for determination is whether it was correct to establish the following claim against petitioner for an overpayment of FS: Claim Number [REDACTED] for the time period December 1, 2014 to December 31, 2014 in the total amount of \$194.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], Overpayment Specialist
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County, Wisconsin.
2. The County established the following claim against petitioner for an overpayment of FS: Claim Number [REDACTED] for the time period December 1, 2014 to December 31, 2014 in the total amount of \$194.00.
3. During the time period of the FS overpayment listed in *Finding of Fact #2*, above, petitioner was incarcerated and was provided with the majority of his meals by the jail where he was incarcerated.

DISCUSSION

All FS overpayments, regardless of fault, must be collected. 7 C.F.R. § 273.18(b)(3) (2015); See also, *FoodShare Wisconsin Handbook* ["FWH"] 7.3.1.1 & 7.3.2.1.

An individual who is incarcerated in a jail is not eligible for FS when the jail provides the majority of the individual's meals. 7 C.F.R. § 273.1(b)(7)(vi) (2015); FWH 3.2.1.2.2. & 3.2.1.4. During the time period of the FS overpayment listed in *Finding of Fact #2*, above, petitioner was incarcerated and was provided with the majority of his meals by the jail. Petitioner does not dispute this. Therefore, the overpayment must be affirmed.

Petitioner testified that his FS card was stolen. However, when asked to report the alleged theft to the police he refused to do so. Further, he provided no explanation as to how a thief would know the PIN that went with his FS card.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to establish the following claim against petitioner for an overpayment of FS: Claim Number [REDACTED] for the time period December 1, 2014 to December 31, 2014 in the total amount of \$194.00.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 9th day of November, 2015

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 9, 2015.

Dane County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability